

STV



PATENT
1300-1-009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : David Paul Humphreys ART UNIT : 1656
SERIAL NO. : 09/856,864 EXAMINER : Lee, Jae W
FILED : July 5, 2001
FOR : DNA ENCODING FUSION PROTEINS WHICH ARE
SPECIFICALLY CLEAVABLE BY COPPER (II) IONS

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to COMMISSIONER OF PATENTS, P.O. Box 1450, Alexandria, VA 22313-1450 on JUNE 27, 2007.

Lois A. Snure
(Name of Depositor)

Lois A. Snure 6/27/07
(Signature and Date)

REQUEST FOR WITHDRAWAL OF ERRONEOUS ABANDONMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

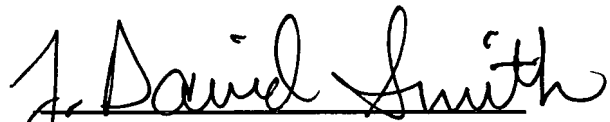
Dear Sir:

Applicants request herewith that the Notice of Abandonment dated June 19, 2007 (Paper No. 20070614) be vacated, as a proper response to the outstanding Requirement for Restriction dated October 16, 2006 was mailed to the U.S. Patent Office on November 15, 2006.

In support of Applicant's entitlement for withdrawal of the Notice of Abandonment, Applicant submits herewith a copy of the Response to Restriction Requirement, which includes a Certificate of Mailing indicating a mailing date of November 15, 2006, and the corresponding canceled postcard receipt with respect to same.

Favorable consideration and withdrawal of the Notice of Abandonment, and restoration of the present application to the pending roles for purposes of further processing, are believed to be in order, and are courteously solicited.

Respectfully submitted,


J. David Smith
Attorney for Applicant(s)
Registration No. 39,839

KLAUBER & JACKSON L.L.C.
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Hackensack, NJ 07601
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COPY

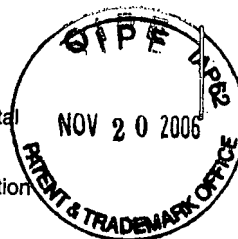
09

Serial No. 10/856,864 File No. 1300-1-009 By DAJ/DS/1s

Title DNA ENCODING FUSION PROTEINS WHICH ARE SPECIFICALLY
In the Matter of the Application of David Paul Humphreys

The following was received in the U.S. Patent & Trademark Office on the date
stamped hereon:

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|--|--|
| <input type="checkbox"/> Transmittal Sheet/Cover Ltr. | <input type="checkbox"/> Extension of Time |
| <input type="checkbox"/> Application For Patent | <input type="checkbox"/> Issue Fee Transmittal |
| <input type="checkbox"/> Declaration <input type="checkbox"/> Affidavit | <input type="checkbox"/> Maintenance Fee |
| <input type="checkbox"/> Drawings <input type="checkbox"/> Sheet(s) | <input type="checkbox"/> Appln. TM Registration |
| <input type="checkbox"/> S.E. Verified Statements | <input type="checkbox"/> 8 & 15 Declaration |
| <input type="checkbox"/> Assignment | <input type="checkbox"/> Renewal Application |
| <input type="checkbox"/> Check for \$ _____ | <input type="checkbox"/> Notice of Appeal |
| <input type="checkbox"/> Letter <input type="checkbox"/> Missing Parts | <input type="checkbox"/> Brief <input type="checkbox"/> Petition |
| <input type="checkbox"/> Priority Document | <input type="checkbox"/> Power of Attorney |
| <input type="checkbox"/> Amendment <input checked="" type="checkbox"/> Response To Restriction Requirement | |



11/2 2006



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: David Paul Humphreys

Examiner: Lee, Jae W.

Serial No.: ~~10~~856,864

Group Unit: 1656

Filed: July 5, 2001

For: DNA ENCODING FUSION PROTEINS WHICH ARE SPECIFICALLY
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope with sufficient postage addressed to the COMMISSIONER OF PATENTS, P.O. Box 1450, Alexandria, VA 22313-1450 on November 15, 2006.

Lois A. Snure
(Name of Depositor)

Lois A. Snure 11/15/06
(Signature and Date)

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Restriction and Election Requirement mailed from the USPTO on October 16, 2006 having a due date for response of November 16, 2006. It is believed that no fees are due in connection with this submission, however, if any fees are due, please charge our Deposit Account No. 11-1153.

REMARKS

Claims 1-7 are pending in the instant application. The Examiner requires that Applicant elect the one group of claims for prosecution that is currently pending, namely Group I, claims 1-7. Applicant herein makes the required election believing it to be in error as only one group of claims is pending. Respectfully, if the Examiner should believe that there is any lack of unity of invention among the claims 1-7, the Examiner must offer a proposed division of the claims into more than one group.

The Examiner further maintains that the application contains claims directed to patentably distinct species, namely each of cleavage sites DKTH, DRSH, EKSH or DKSH. According to the Examiner, the species are independent or distinct because each represents a structurally distinct molecule. Hence, the Examiner requires pursuant to 35 U.S.C. §121 that Applicant elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is found allowable.

Applicant respectfully reminds the Examiner of the requirements of 37 C.F.R. §1.141 providing that Applicant is entitled to consideration of claims to additional species written in dependent form or otherwise incorporating the limitations of a generic claim upon allowance of a generic claim. Since the Examiner maintains that these four cleavage sites (DKTH, DRSH, EKSH, and DKSH) are independent and distinct because each represents a structurally distinct molecule, Applicant hereby elects the DKTH cleavage site. However, Applicant respectfully submits that the species are not independent or distinct. Smith *et al.*, 1996, *Int. J. Pept. Protein Res.*, 48(1):48-55 teach an antibody that is cleaved by copper (II) ions at a DKTHT cleavage site. However, the cleavage site of Smith *et al.* is a natural cleavage site whereas the present invention relates to DNA coding for a fusion protein comprising two polypeptides joined by a cleavage site that does not naturally join the polypeptides.

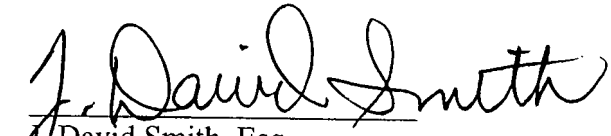
FEES

It is believed that no fees are necessary in connection with the present submission; however, should this be in error, authorization is hereby given to charge Deposit Account No. 11-1153 for any underpayment or to credit any overage.

CONCLUSION

It is believed that all of the claims are patentable and early notification as such is earnestly solicited. If any issues may be resolved by way of telephone, the Examiner is invited to call the undersigned at the telephone number indicated below.

Respectfully submitted,


J. David Smith, Esq.
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Attorney for Applicants

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